

EXHIBIT H



ENGLEWOOD HEALTH
PHYSICIAN NETWORK

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CARDIOVASCULAR

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April 21, 2020

To Whom It May Concern:

Mr. Gary Basrallian is at high risk of a grave outcome from a Covid-19 infection. As per the CDC, his risk of death is increased by his age (greater than 65) and coronary artery bypass surgery with 3 bypasses and aortic valve replacement in April 2015. His cardiac condition will require life-long access to quality medical care, cardiac medication and cardiac testing.

Mr. Basrallian is an appropriate candidate for home confinement as he is in a low-minimum risk security facility. He is deemed non-violent in terms of his behavior in and out of prison. Home confinement will help mitigate his risk of infection and death. It would also help by reducing overcrowding, improve his access to soap, hand washing and social distancing.

Covid-19 infection in prison is a multi-state issue including New Jersey. Preventing suffering and unnecessary death for prison staff and prisoners while protecting the public are the goals of Federal memos and programs for the last 2 months. Please consider his release.

Sincerely,

William J. Lyons, MD

WJL/er

EXHIBIT I

Tamra Katcher

From: BASRALIAN GARY (71610050)
Sent Date: Thursday, October 22, 2020 12:06 PM
To: tkatcher@remlawgroup.com
Subject: misc.

[REDACTED]

[REDACTED]

I have asked and submitted requests to see the cardiologist since February. I'm not submitting any more; they'll consider it harassment. I verbally questioned the nurse and was told that they're now "considering" and "investigating" the use of Zoom appointments; indicated reason is that the cardiologist doesn't want to come here.

[REDACTED]

cc: T. Katcher
K. Topjian
Dix file

EXHIBIT J

Tamra Katcher

From: BASRALIAN GARY (71610050)
Sent Date: Thursday, November 12, 2020 8:10 PM
To: tkatcher@remlawgroup.com
Subject: RE: medications

Also take Omeprazole 40 mg for chronic gastritis, GERD

re: Cardiologist: I started asking for an appt on February 27.
Asked several times; had put forms in but don't have copies.
requested verbally several more times.

May 3rd is when they increased my Atorvastatin to 80mg based on my MD's suggestion. Dr. Lyons is my personal cardiologist. [REDACTED]

May 6th test COVID positive and went to quarantine for 10 weeks. Had symptoms eventually tested negative twice. While away had cellulitis in my right hand index finger but they never cultured it; just shot me up with antibiotics for 10 days [REDACTED]

August 12th, after I was back in the camp, I submitted a form (don't have the copy) for the dermatologist, Cardiologist and eye doctor. by chance the eye doctor/tech came in a few days later and I did have an eye test. I never heard again about the cardiologist or dermatologist. I had also said I need to have an echo to check my heart valve which I have every year; it was part of a study at Mr. Sinai for the type of calcium preventing coating. Never had that either; also require blood work. Nope.

Augsut 25th - asked again about cardiologist; told that he won't come here. Can do a zoom meeting. we don't have that capability here.

September 15th. Asked the dental tech about my tooth and missing cap. Said to submit form. I did. Never heard back.

September 24, submitted another form for the cardiologist. Have that copy. Same story

[REDACTED] they have not tested anyone at the Camp since May 7th. [REDACTED]

Note that I still have excessive gastric issues, I had complained about my leg swelling and have no idea if there are any lingering cardiac issues from having been infected. Basically, no one knows how long or what side effects can be and I'm not saying I have them but they seem coincidental.

[REDACTED]

>

EXHIBIT K



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November 24, 2020

To Whom It May Concern:

Mr. Gary Saraban is a patient under my care for coronary artery disease, status post coronary artery bypass graft surgery, aortic valve replacement, hypertension and hyperlipidemia.

By report he has been suffering from hypertension, edema and headaches.

Medical care, testing and follow up visits are important given Mr. Saraban's various health issues. He appears to be having noteworthy cardiac complaints and should be evaluated.

Sincerely,


William J. Lyons, MD

WJL/er

EXHIBIT L

Tamra Katcher

From: BASRALIAN GARY (71610050)
Sent Date: Thursday, November 5, 2020 5:34 PM
To: tkatcher@remlawgroup.com
Subject: update

[illegible]

[REDACTED]

11/6/2020

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No.
18-cr-515-MCA
v. :
GARY BASRALIAN, : TRANSCRIPT OF
SENTENCING
Defendant. :
-----x

Martin Luther King Courthouse
50 Walnut Street
Newark, New Jersey
September 6, 2019

BEFORE:

THE HON. MADELINE COX ARLEO, U.S.D.J.

Reported by:
CHARLES P. McGUIRE, C.C.R.
Official Court Reporter

Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

CHARLES P. McGUIRE, C.C.R.

APPEARANCES:

**COURTNEY A. HOWARD, Assistant United States Attorney
970 Broad Street
Newark, New Jersey 07102
On behalf of the Government**

**PETER R. WILLIS, Esquire
921 Bergen Avenue
Jersey City, New Jersey 07306
And
FASULO BRAVERMAN & DiMAGGIO, LLP
225 Broadway
New York, New York 10007
BY: SAMUEL M. BRAVERMAN, ESQ.
Attorneys for Defendant**

1 (Defendant present)

2 THE COURT CLERK: All rise.

3 THE COURT: All right. Good morning, everyone.

4 We are here in the matter of United States of
5 America v. Gary Basralian to impose sentence today.

6 Could I have appearances, please?

7 MS. HOWARD: Assistant United States Attorney
8 Courtney Howard for the Government.

9 THE COURT: Everyone can be seated in the back of
10 the courtroom. Thank you.

11 All right.

12 MR. BRAVERMAN: Sam Braverman and Peter Willis for
13 Mr. Basralian, who is seated immediately to my right.

14 THE COURT: All right. So, we're here today to
15 impose sentence.

16 Let's begin by reviewing the documents that I
17 received to make sure I have everything.

18 I have the final presentence report that was
19 prepared on May 2nd, 2019. I believe there was an addendum
20 to that report as well.

21 I have a letter from the Government, dated August
22 30th of 2019.

23 Also submitted to me are a number of letters from
24 victims, and a letter from Mr. Willis, dated August 21st,
25 2019, asking for permission to be heard today, which I told

1 him in chambers a minute ago that I would certainly extend
2 him that courtesy today.

3 I also have a letter -- both the letters that I
4 have, I have a letter from Patricia Czmyr, dated March 1st,
5 2019; I have a letter dated January 20th, 2019 from a Gene
6 Gernais (ph); I have a letter from Judith Siegel, dated
7 February 18, 2019; a letter from Toni FitzMorris, dated
8 February 18, 2019; Wendy Downing, February 13th, 2019; a
9 February 13th letter from Carol Carter; a Cathy Carter
10 letter, dated February 12 of 2019; a letter from Ms. Vergara
11 dated February 5th, 2019, who I believe is Mr. Basralian's
12 present wife, and I have a letter from Mr. Basralian, dated
13 April 17th of 2019.

14 I also received a submission from defense counsel,
15 dated June 4th, 2019, and attached thereto are a number of
16 letters that are set forth on page seven of his letter to
17 the Court.

18 I note a number of letters from family, friends,
19 and colleagues that the Court has also received and
20 reviewed, and they have all been considered by the Court in
21 connection with today's sentencing.

22 Is there anything else that I missed?

23 MS. HOWARD: Nothing from the Government, Your
24 Honor.

25 MR. BRAVERMAN: No further submissions from the

1 defense, Your Honor.

2 THE COURT: Okay. So, let's begin with the
3 Sentencing Guideline range.

4 So, I will begin by noting that the -- we can
5 follow along, I guess, with the Probation report, it's on
6 page 21, and there are a couple disputes between the parties
7 in terms of -- there's no dispute on the criminal history;
8 correct?

9 MS. HOWARD: That's correct, Your Honor.

10 THE COURT: Okay. So the issue is the offense
11 level.

12 Probation has calculated it as a 28.

13 To begin, they have added a special offense
14 characteristic. They've added an 18-level increase, finding
15 that the loss was more than \$3.5 million but less than
16 \$9.5 million.

17 At the plea, the parties stipulated that the loss
18 was between 1.5 and 3.5, which would only require a 16-level
19 increase.

20 I'm inclined to accept the stipulation of the
21 parties at the plea and only include a 16-level increase.
22 So I am not accepting Probation's recommendation. I'm going
23 to accept the stipulation at the plea. That will be a 16.

24 There are two additional adjustments that the
25 Government has requested. One was also included by

1 Probation, and it's based on the fact that the offenses
2 involved vulnerable victims and would result in a two-level
3 increase, and the second one is substantial hardship to
4 victims, which would also amount to a two-level increase,
5 and I understand that that was not addressed at all at the
6 -- these two issues were just simply not addressed at the
7 plea, and the Government set forth the factual basis for
8 both of those adjustments.

9 I understand that the Defendant opposes those
10 adjustments, so I'll let defense counsel be heard, and then
11 I'll let the Government respond. Okay?

12 MR. BRAVERMAN: Well, Judge, I do object to the
13 two enhancements that the Court has proposed or that
14 Probation has proposed and the Court is reviewing at this
15 point.

16 Most importantly, so there are facts that sound
17 terrible, and there are facts that are as it relates to
18 vulnerable victims and substantial hardship.

19 What we know, for example, is that the victim who
20 lost the largest amount of money in this case here,
21 Probation has wrote and the Government has written that she
22 is, you know, that she has a substantial mental impairment
23 as a result of that whole condition and that this has made
24 her substantially vulnerable to the Defendant abusing his
25 position of trust with her.

1 What we also know, Judge, as a matter of fact, is
2 that she continued to run a business, that there were
3 business decisions that were totally independent of the
4 Defendant that he had nothing to do with whatsoever, and
5 that she exercised totally normal dominion and control of
6 the business interests, and that she performed those
7 business interests to the best of her abilities, and that
8 she was able to satisfactorily complete all those.

9 So the facts that are alleged are not supported by
10 the facts --

11 THE COURT: Well, let's break that down, because
12 the adjustment requires vulnerable victims, which I imagine
13 is at least two victims who are vulnerable, and the
14 Government has pointed to six.

15 So, you're talking about the first victim, LD, who
16 is the 81-year-old who suffers from dementia? Is that the
17 one you're contesting?

18 MR. BRAVERMAN: No, Judge, I'm contesting a
19 different one. The problem is that there -- I mean, I'm
20 happy to use names. I assume you prefer not to.

21 THE COURT: Well, we have initials, and that's
22 what the Government has used, and I assume that they're
23 initials of their names. So instead of saying their names,
24 we can just use their initials.

25 LD, CC, JL, JLS, PAC, and JNJ are in the

1 Government's brief.

2 MR. BRAVERMAN: It's page two in the Government's
3 papers.

4 THE COURT: I don't know what page it is.
5 Page three.

6 MR. BRAVERMAN: Page three.

7 The one I was referring to, Judge, is the second
8 one, identified as CC in the Government's papers, and that
9 is the one for the vast majority of the conduct here that we
10 are concerned.

11 THE COURT: She is the one who years earlier had a
12 closed-head trauma, it look like, a near-death car crash,
13 "head injuries rendering me incapable of continuing my
14 advertising career in Newark, in Manhattan, and losing my
15 husband in a plane crash."

16 MR. BRAVERMAN: Yes, that's correct, Judge.

17 THE COURT: Okay.

18 MR. BRAVERMAN: She's the one who then went on to
19 manage and close the business that was related, she was the
20 one who ended up managing and closing and addressing other
21 business interests, which she did independent of my client.

22 THE COURT: Okay, and what about the other victims
23 that are listed here?

24 (Off the record discussion between the Defendant and
25 defense counsel)

1 MR. BRAVERMAN: So, Judge, reviewing the
2 Government's papers here, I see the first one listed as LD,
3 and the second one is CC, the third, JL, the fourth, JLS,
4 the fifth, PAC, and the sixth, JMJ. There are no facts that
5 are alleged here that suggest that they're vulnerable, other
6 than their age.

7 THE COURT: In your mind, what kind of facts
8 suggest vulnerability, because -- let me read them for the
9 record.

10 LD is 81 years old and suffers from dementia.
11 That speaks to me of vulnerability.

12 MR. BRAVERMAN: Right. I didn't address that one.

13 THE COURT: Okay.

14 MR. BRAVERMAN: The ones I identified were two,
15 three, four, five, and six, and I was going to come back to
16 one. So I was addressing three, four, five, and six, JL,
17 JLS, PAC --

18 THE COURT: JL is 81 years old. The Defendant
19 took over investments when her husband died. She described
20 the personal relationship that they shared: He would come
21 to her house rather than having her come to his office; "I
22 would make him cookies"; how deeply he violated her trust,
23 because she gave him complete access to her finances and
24 trusted him completely.

25 That does not speak of vulnerability?

1 MR. BRAVERMAN: It does not, Your Honor. My
2 mother is 83, and --

3 THE COURT: We're not here to talk about your
4 mother.

5 MR. BRAVERMAN: Okay.

6 THE COURT: We're here to talk about -- all right.
7 That's your argument. That's all.

8 Okay. What else?

9 MR. BRAVERMAN: So, number four, JLS, is a retired
10 woman who has known the Defendant since 1988. She described
11 him as "one of my closest friends" whose financial advice
12 she trusted. Over 10 or 12 years, he stole approximately
13 1.4 million from her. There's nothing here that addresses
14 vulnerability.

15 Similarly, victim PAC is a 71-year-old woman. She
16 describes him as someone she trusted and has known for 20
17 years. There's nothing that makes her vulnerable.

18 Victim JMJ is a 73-year-old woman who has been
19 widowed with four children since she was 46 years old.
20 There's nothing here that makes her a vulnerable victim.

21 Instead of addressing number one, I'll address
22 number two.

23 Addressing number one, dementia is obviously
24 something that would make her a vulnerable victim, but the
25 question is whether she had dementia when she dealt with my

1 client. If she has dementia now but didn't have it at the
2 time she dealt with my client, then that would make her not
3 a vulnerable victim at the time of the crime. She might be
4 today.

5 And so I would object to that one as well, or I
6 object to that -- that enhancement.

7 MS. HOWARD: Your Honor, if I could respond
8 briefly.

9 Judge, the vulnerable victim enhancement pursuant
10 to 3A1.1(b)(1), the comments -- well, the adjustment allows
11 for an increase of two levels if the Defendant knew or
12 should have known that the victim of the offense was a
13 vulnerable victim.

14 The application notes, number two describes a
15 vulnerable victim as a person who is, quote, "unusually
16 vulnerable due to age, physical or mental condition, or who
17 is otherwise particularly susceptible to the criminal
18 conduct."

19 Your Honor, as the Government described in the
20 letter dated August 30th, the victims of the Defendant's
21 crimes were selected particularly because they were less
22 likely to ask questions about their finances. He picked
23 women, usually widowed or single, who, according to
24 interviews, gave complete control of their finances over to
25 the Defendant without asking questions because they trusted

1 him, and they trusted him, Your Honor, because the Defendant
2 befriended them, and it is because of their age, their
3 station in life, and the fact that he was their trusted
4 financial adviser who then also became friends with these
5 people, and they trusted him, that then made them, quote,
6 "particularly susceptible" to his criminal conduct. He did
7 it in a calculating way, and this is exactly the type of
8 conduct that this offense enhancement adjustment is meant to
9 apply.

10 We have not one but one, two, three, four, five,
11 six victims here who have given statements explaining why
12 they were particularly susceptible to his criminal behavior
13 because of the position that he had and the friendship that
14 he gave them.

15 So, Your Honor, the Government believes at least
16 two points should be applied pursuant to that enhancement.

17 THE COURT: All right. I'm looking at the
18 guideline and the commentary at 3A1.1, which speaks of
19 vulnerable victim: "If the Defendant knew or should have
20 known that the victim of the offense was a vulnerable
21 victim, increase by two levels." And it says a vulnerable
22 victim meaning "a person who is usually vulnerable due to
23 age, physical or mental condition, or who is otherwise
24 particularly susceptible to criminal conduct."

25 I'm satisfied that the Government has demonstrated

1 at least two of these victims fall within this enhancement.

2 The Guidelines speak to age, physical and mental
3 condition, or who was otherwise particularly susceptible to
4 the criminal conduct.

5 So at least two of the victims are in their 80's.
6 One of them suffers from dementia, and, although we don't
7 have a precise date of the onset of dementia, her age alone
8 would suggest that she -- with some mental health issues at
9 some point would suggest that she suffers from -- that she
10 is a particularly vulnerable victim.

11 The second victim, the standard is not,
12 incapacitated; the standard is not someone who is in a
13 guardianship position. The standard is, vulnerable. And
14 someone who has had a 30-year relationship, and their
15 personal story begins with a near-death car crash and
16 injuries that caused her to lose her career, and losing her
17 husband in a tragic situation like a plane crash, despite
18 the fact that she may have been able to -- I accept
19 Defendant's proffer that she may have been able to go on and
20 do other things to advance the business interests. Those
21 other factors nonetheless demonstrate that she is vulnerable
22 as that phrase is defined by the guidelines.

23 Likewise, the third victim, an 81-year-old woman
24 who Defendant took over her investments after her husband
25 died, they had a personal relationship, and he knew that,

1 and knew that she was older and that she was a widow, and
2 that falls within the description of vulnerable victim.

3 Similarly, the other victims are people that had
4 developed close relationships of great trust and were
5 elderly or older. Although I agree with you that 71 and 73
6 are certainly not the same as someone in their 80's or even
7 older, these are people that, at least one was widowed, they
8 were in their retirement years, they had a close
9 relationship with the victim, and I'm satisfied that they
10 also fall within the description of a vulnerable victim.

11 And, because I find that at least two of these
12 victims apply, I am satisfied that the enhancement for
13 vulnerable victim is appropriate here, and I'm going to
14 increase it by a two-level enhancement. Okay?

15 So the second adjustment that the Government is
16 seeking is substantial hardship to the victim.

17 And, while Probation did not find this enhancement
18 in their report, the Government has requested that it apply
19 here, and they outline on page four of their brief why this
20 adjustment should apply.

21 I understand the Defendant opposes it, and I will
22 hear from the Defendants.

23 Like the other one, they point to, I think, three
24 victims who they assert fall within this enhancement.

25 MR. BRAVERMAN: One second, Your Honor?

1 (Off the record discussion between the Defendant and
2 defense counsel)

3 MR. BRAVERMAN: Judge, I think -- I do not have
4 the financial statement of each of these individual victims,
5 and I'm not in a position to tell the Court that I know what
6 they have and how much money they have. The conclusions
7 that they raise, they sound like legitimate conclusions
8 under the statute here. I don't have anything to verify
9 that. I don't have anything to say that their final
10 position -- is greater than a million dollars, and so it
11 really is -- it certainly can be that they feel that they
12 have lost a substantial hardship, but as a matter of
13 financial position, if their position is that they still
14 have net worth greater than a million dollars, does that
15 create a --

16 THE COURT: Well, let's go back to the guideline.

17 Under 2B1.1, the note 4(f) gives us some guidance:
18 "In determining whether the offense resulted in substantial
19 financial hardship, the Court shall consider, among other
20 factors, whether the offense resulted in the victim becoming
21 insolvent; filing for bankruptcy...; suffering substantial
22 loss of a retirement, education, or other savings or
23 investment funds; making substantial changes to his or her
24 employment, such as postponing his or her retirement plans;
25 making substantial changes to his or her living

1 arrangements, such as relocating to a less expensive home;
2 and suffering substantial harm to his or her ability to
3 obtain credit."

4 So, in support of that, this is what the
5 Government proffers.

6 Victim JL had to sell her home last year because
7 the Defendant stole from her retirement fund, so she had to
8 downsize. She had been in her home for 50 years. She now
9 lives in a small home in a retirement community and is not
10 able to purchase furniture or curtains. In addition, she
11 needs \$8,000 in dental work and she cannot afford and has
12 put off medical tests.

13 Two, victim PAC has to postpone her retirement and
14 is still working full time at age 71 because of the
15 Defendant's actions.

16 Three, victim JNJ also had to postpone her
17 retirement and continues to work at age 73. She had to sell
18 her current home, which she had purchased and completely
19 redone with the intent to live there permanently. She had
20 to move to a small, less expensive area and home.

21 So these facts were set forth, I believe, in the
22 final presentence report, which you had the right to object
23 to, which I have full faith that the Probation Department
24 fully vetted, and met with the victims and recorded that
25 information.

1 They also as victims submitted letters, which I
2 referenced earlier, that corroborate those facts.

3 So the standard under the Guideline is not how
4 much money is left. It's not a spreadsheet. It's what I
5 said and what the Government pointed to: Having to change
6 living arrangements, having to make substantial plans to
7 your employment, such as postponing retirement, and
8 suffering a substantial loss to your savings, and those are
9 the things that have been pointed out by the Government in
10 their letter. All right?

11 So, anything you want to add?

12 From the Government?

13 MS. HOWARD: No, Your Honor, just that those fall
14 squarely within the enhancement.

15 THE COURT: This is not even a close call. These
16 fall squarely within the enhancement. These are victims, as
17 described both to the Probation Office and to the Court in
18 letters. Victim JL had to sell her home, had to downsize
19 from a home she had been in for 50 years; victim PAC had to
20 postpone retirement and is still working full time; and
21 victim JNJ had to postpone retirement and continues to work
22 at age 73. She also had to sell her current home.

23 Those victims fall squarely within enhancement
24 2B1.1 as demonstrating a substantial financial hardship.

25 I accept that enhancement, and that puts us at an

1 offense level conduct of 28, and a Guideline range of 78 to
2 97 months.

3 MS. HOWARD: Your Honor, just one note for the
4 record.

5 THERE was one enhancement that was stipulated to
6 in the plea agreement.

7 THE COURT: Yes, you're right, and that was for
8 the securities broker. Okay. So I was only addressing the
9 ones that were raised or objected to in the submissions by
10 Defendant; and I think there is no objection to the fact
11 that he was a securities broker, or the level 16 for the
12 loss amount. Okay?

13 So, would the Government like to be heard first in
14 terms of sentence?

15 So, the Guideline range is between 70 -- I should
16 say between 78 and 97 months.

17 Just to put it in context, and I'll let everyone
18 be heard, Defendant has asked for a sentence substantially
19 below the guidelines. They have asked the Court to vary,
20 and they've asked to impose a sentence of not more than 30
21 months on each count, and the Government has asked for a
22 guideline sentence at the upper end of the guideline range.
23 Okay?

24 I will hear first from the Government, and then I
25 will let, certainly, defense counsel and Mr. Willis as

1 co-counsel and a personal friend as well as the Defendant be
2 heard. Okay?

3 MS. HOWARD: Thank you, Your Honor.

4 Your Honor, the Defendant's conduct in this case
5 is, frankly, among the most egregious of frauds.

6 The Defendant was an investment adviser, he was in
7 a position of trust, and over the course of 10 years, he
8 stole over 3.7 million from at least 10 of the clients.

9 The Defendant's actions were not isolated. They
10 were not a mistake. This was not a lapse in judgment. This
11 was sustained, calculated abuse of his position of trust.
12 It was methodical, and it was destructive.

13 The Defendant, Your Honor, selected his victims
14 from his clients to find the ones who trusted him the most,
15 to find the victims who were the least likely to ask
16 questions, and, when they did ask questions, the most likely
17 to trust him when he said, don't worry about it, I've got it
18 under control.

19 The victim here all shared a similar profile.
20 They were all women, they were usually single or widowed,
21 and they're now in their 70's or 80's. Uniformly, in the
22 Government's interviews of these victims and in the
23 statements that they provided to Probation and in the
24 letters, these women trusted the Defendant completely, in
25 part because of the length of time that they had known the

1 Defendant, and because of the Defendant's actions in
2 befriending them, in taking their relationship beyond that
3 of an investment adviser, which is already a position of
4 trust, but even further, to close friends with these women.
5 He went to their homes. He took them out to dinners. The
6 Defendant did this deliberately.

7 The ways he stole money varied. Sometimes he
8 simply wired money directly out of their accounts, at times
9 forging signatures in order to do so. At other times, he
10 would direct his clients to write checks to entities he
11 controlled, representing that the funds would be invested
12 and go into the investment accounts. When one victim began
13 asking questions about the diminishing returns in her
14 account, the Defendant created a fake document to cover up
15 his crimes and showed purported investments in real estate,
16 high-interest loans, and securities that were all false.

17 The Defendant -- one of the victims' statements I
18 do want to point out to Your Honor, one of the victims
19 described asking the Defendant questions and described her
20 daughter asking questions about the trust that she was
21 putting in the Defendant, and described his response to that
22 to keep her finances to herself, don't talk to her daughters
23 about it, he had it under control, and that was so that he
24 could keep stealing from her.

25 And the Defendant used that money for his own

1 purposes - thousands of dollars to BMW, tens of thousands of
2 dollars to personal credit card bills, car payments,
3 mortgage payments. He was funding his own life from the
4 retirement funds of these women, who have worked hard, who
5 had been in accidents and received money from settlements
6 because they had been injured and were relying on that money
7 to live. He was taking it and funding his own lifestyle.

8 The other issue here that really calls for a
9 sentence at the top of the Guideline range of 97 months is
10 the betrayal that he caused to these victims, and they
11 described it in the emotional pain that they suffered in
12 addition to now the financial losses.

13 Victim CC describes the betrayal by a trusted
14 friend.

15 Victim JL states that it's very emotional and
16 stressful. She writes: "Basralian violated my trust, and I
17 don't think I will ever be able to get over that. I trusted
18 him completely and I believed he was my friend. The life
19 change since the beginning of this has been difficult. I am
20 depressed, I developed anxiety, and I do not sleep at night.
21 The stress has taken a toll on my memory, and so I become
22 more reliant on my children because I doubt myself."

23 Victim JLS described how she considered Basralian
24 one of his closest friends. She said: "I believe
25 Mr. Basralian should be held responsible, not only for the

1 financial losses I have incurred, but also for the immense
2 pain and sadness that his betrayal of my trust engendered.
3 Financial advisers play an important and intimate role in
4 their clients' lives. That one should betray that trust and
5 responsibility is not acceptable."

6 Victim PAC calls the Defendant, quote, "a shrewd,
7 manipulating liar." She writes, quote: "After many years
8 of savings, my anxiety level is so high because of losing my
9 retirement and other funds by this deceit. These are the
10 consequences which I have to live with for the rest of my
11 life. To live this over and over is devastating. There is
12 not a day that goes by where the thoughts of his actions
13 result in my difficulty sleeping and concentrating, which
14 affect my daily life. The emotional stress is overwhelming,
15 along with feeling so betrayed. His sentencing should have
16 no limits. He is the one who has mastered being deceitful,
17 taking full advantage of the situation."

18 So, the conduct itself, Your Honor, in looking at
19 the 3553(a) factors of the seriousness of the offense and to
20 provide just punishment of the offense, this was, again, the
21 most heinous of frauds, and should be viewed that way in
22 fashioning a sentence.

23 Second, Your Honor, in speaking about the history
24 and characteristics of this Defendant, he has had, according
25 to the information in the PSR, every opportunity to succeed,

1 but instead of taking advantage of his station in life, he
2 chose to just steal from others. He took advantage of
3 others who have saved sometimes for decades to put money in
4 retirement and to fund his own lifestyle. Again, it was
5 conduct that took place over 10 years. It was repeated
6 theft, it was repeated lies, and it was repeated inducement
7 to trust.

8 I also want to note, Your Honor, some information
9 that was contained in the PSR, which, again, the final PSR
10 did come out on May 2nd of 2019, so some months ago, and
11 that has yet to be addressed by the defense. It appears
12 from information in the PSR that Defendant misled Probation
13 about potential assets for satisfying restitution.

14 At the time of his presentence interview on
15 October 24th, 2018, he indicated that he jointly owned a
16 home with his -- I believe his first wife in Millburn,
17 New Jersey. According to the PSR, that home was sold on
18 February 14th of this year for \$730,000, and as of this
19 date, the Probation Office did not have any information
20 about the accounting from that sale as of the date of May
21 2nd and then also as of today.

22 Probation also obtained records from Pretrial
23 Services which revealed that the Defendant had requested
24 permission to travel to Puerto Rico to assess damage of a
25 property there of which the Defendant was a managing

1 partner. He did not -- in his financial affidavit that he
2 provided to Probation, he did not indicate that this
3 property -- that he had this property or that he had
4 business holdings of which he was a managing partner.

5 So that concerns the Government, given -- in
6 evaluating the history and characteristics, that even now,
7 he can't be fully forthcoming about his assets.

8 Finally, Your Honor, just briefly, it is important
9 for deterrence purposes, general deterrence and specific
10 deterrence to Basralian that the Court sentence him to a
11 sentence at the top of the Guidelines range. This is a
12 crime that the public should know that people who are in
13 positions of trust, like investment advisers, a very
14 significant position of trust where they have access to
15 funds and they're in this unique position to abuse the
16 finances of their clients, that they should be deterred from
17 doing so, and that a significant sentence will follow.

18 This is not a situation where there are mitigating
19 factors, frankly, Your Honor. It's just greed.

20 And so, with that, Your Honor, the Government
21 submits that a sentence at the top of the Guidelines range
22 of 97 months is appropriate here.

23 THE COURT: Thank you.

24 MS. HOWARD: Thank you.

25 MR. BRAVERMAN: Good morning, Your Honor.

1 THE COURT: Good morning.

2 MR. BRAVERMAN: Judge, I'm not going to start with
3 where the Government started, but I will get to where the
4 Government started and conclude there.

5 The first and foremost, Judge, I'd like to address
6 is that it is unequivocal that Mr. Basralian's conduct was
7 unacceptable, criminal, and must be punished. There's no
8 doubt.

9 And in Mr. Basralian's letter to the Court,
10 Mr. Basralian's statements to Probation, which is quoted in
11 several pages -- and I would say it was approximately 200
12 pages that was provided to Probation of background documents
13 that related to the underlying actions with his prior spouse
14 -- spouses. That is unequivocal, and I just don't think
15 that that could be contested.

16 The conduct should be punished; of course it
17 should. This Court, probably everybody in this room has
18 saved a dollar somewhere, and they want that dollar
19 protected. There's no doubt that people who steal from
20 those funds should be punished. That's just first and
21 foremost.

22 We are here today to determine what is the level
23 of punishment, not that he should be. Mr. Basralian will be
24 punished in a host of ways that I ask the Court to consider
25 as well to make sure that the Court reviews the entire

1 scheme of punishment.

2 That includes the fact that Mr. Basralian is going
3 to prison. If it's a day, if it's a decade, he's going to
4 prison, and that separates him from the vast majority of
5 people in our country who have committed an offense and
6 don't go to prison. He's going to go to prison, and he's
7 going to be there for -- in a Federal prison, where he's
8 going to be supervised, and he's going to have every
9 movement that he has in a day restricted. He's going to
10 have no ability to care for his wife. He's going to have no
11 ability to care for his brothers and sisters, who are here
12 today. He's going to have no ability to care for his
13 children - none. He's going to be a felon for the rest of
14 his life, which, at age 72, making him older than some of
15 the victims in our case, I guess that would make him a
16 vulnerable victim as well if he were a victim of a crime.

17 Nonetheless, he is going to be a felon for the
18 remaining let's say decade of his life. Let's hope he lives
19 that long. He's going to be somebody who will never be able
20 to participate in the field that he has for the past 40
21 years. Now, that may be a good thing, but he doesn't have
22 any other skillsets. He's not a car mechanic. He's not a
23 builder. He's going to have to learn something new to
24 provide for his family and to make restitution to the
25 victims of this case. He's going to be under supervision

1 for no less than years, for sure. He's going to have a
2 judgment over his head for the rest of his life. There is
3 no chance that he's going to write a check that's going to
4 solve this problem. It can't be done. So every dollar he
5 makes for the rest of his life, before taxes are even
6 collected, he's going to have to pay those victims.

7 The good thing is that that's what he wants to do.
8 In his letter to the Court, as he described it, he wants to
9 make that restitution. These people were, first and
10 foremost, they were friends of his. They were no doubt
11 people he went to dinner with on a regular basis. They were
12 people who wrote to him, even after he was arrested, who
13 wrote to him and they said they still want him to be in
14 their lives, who wrote to him and said they still want to be
15 coming to dinner with him or going to parties, or he was
16 even invited to a wedding.

17 So, there's no doubt that they're angry. There's
18 no doubt that their anger is justified. I do not ever want
19 to suggest that their anger is misplaced.

20 But the reality is, he has also a 40-year career.
21 One of the good things he did in his 40-year career is that
22 he actually built up the wealth of several of these people
23 who are now today victims of this crime.

24 So that's a little bit of the background of this
25 case.

1 It is not -- greed is, I think, a very simple way
2 to explain this because it matches our understanding of why
3 somebody would do a crime that we would not do, because
4 therefore it's easy to say that it's just greed, just
5 sociopathy.

6 But I don't think a review of the case, Judge,
7 actually supports that.

8 Remarkably, Mr. Sternberg, who was the prior
9 Probation Officer in this case and apparently is retired,
10 for reasons that I cannot understand, he never reached out
11 to my client's current wife.

12 So, why is that relevant?

13 So, he reached out to his ex-wife.

14 When we were at the Probation interview, my client
15 spoke at great length about the acrimony of the divorce. The
16 acrimony of the divorce has nothing to do with this case,
17 but it is certainly relevant to the context of this case in
18 the sense that it is the driving force for Mr. Basralian's
19 criminal conduct here.

20 In a completely Sisyphean task, he tried to create
21 a relationship with his son, notwithstanding the fact that
22 the son has absolutely no interest in having a relationship
23 with his father. I have seen the thousands of texts between
24 the two of them, and it is simply not as the prior Probation
25 Officer reported.

1 Remarkably, Judge, I actually called the Probation
2 Officer and wrote to him prior to the conclusion of his
3 report and immediately upon receipt of his report to ask him
4 why does he not return the phone calls of my client's
5 current wife, why does he not speak with her. I never got a
6 response.

7 But on the day that the report was e-mailed to me
8 on March 29th, it was the next day, March 30th, I wrote to
9 Peter Sternberg to say, could you please explain to me why
10 you will not talk to my client's current wife, why you will
11 not reach out to family members?

12 And I never got a response.

13 It's a shame that the officer is not here today,
14 because I would address it to him directly.

15 THE COURT: All right. Well, I don't need to go
16 there, okay? So let's stay on -- let's not use your time to
17 attack a Probation Officer who is not here. You did not
18 write a letter to me or Probation, objecting to this.

19 MR. BRAVERMAN: I did. I wrote a letter to
20 Probation, objecting to it.

21 THE COURT: And they responded.

22 MR. BRAVERMAN: They did not. They ignored it.

23 THE COURT: And what did your letter say?

24 MR. BRAVERMAN: "Dear U.S.P.O. Sternberg:

25 "I have received the Probation report for

1 Mr. Basralian and I will get back to you within 14 days with
2 our comments, but I have a preliminary question. In your
3 effort to verify information provided to you, how come you
4 didn't interview his current wife, Soraya, who we know loves
5 him, and only spoke with the ex-wife, Jackie, who we know
6 hates him? Some of the information that Jackie provided to
7 you is demonstrably false, and we will provide documents to
8 support our position. I also understand that Soraya left a
9 message for you last week, seeking to speak with you, and we
10 had provided her contact info at the PSI several months ago,
11 but no contact between Probation and her was ever made.
12 Please let me no your thoughts. Thanks, Sam."

13 That was sent on March 30th. I have never
14 received a response. Soraya has never received a response.

15 THE COURT: Well, I can assure you, counsel, that
16 I have read his wife's letter to the Court, and I take that
17 in consideration, and I have read his letter and his lengthy
18 explanation of his marriage, and I take that into
19 consideration, too. So I think we can move on from that
20 point.

21 MR. BRAVERMAN: The point only, Judge, is that the
22 conclusion of the Probation report, I believe, is, in part,
23 based upon what I would say is an insufficient
24 investigation. One of the things that this Court --

25 THE COURT: So noted. So noted, and you can move

1 on.

2 MR. BRAVERMAN: So the next step in the 3553(a)
3 analysis is to examine under -- the first one is the nature
4 of the crime itself, which we have discussed. The next one
5 is the nature and characteristics of the Defendant who is
6 accused of that crime.

7 So, Mr. Basralian at 72 years of age is not an
8 unformed person who just appeared out of nowhere in this
9 particular case. What we do know is that he has an
10 extensive family. The family is here today on the Court's
11 left-hand side. We have my client's brother, one of my
12 client's sisters. We have their spouses. We have their
13 children. They have all wrote letters, and the letters
14 write to this Court to explain an extensive history of two
15 important things.

16 The first one is generosity by Mr. Basralian to
17 the rest of the world, not just financial, because the Court
18 might conclude that the financial generosity was, in fact,
19 given because he had stolen money from somebody else, which
20 I don't think is supported in this case. What it is
21 suggestive of is that he was generous with his love and
22 affection to lots of people around the world, that he went
23 out of his way on a regular basis to try and do things to
24 make other people's lives better.

25 And he succeeded, and the 30-some-odd letters that

1 I've sent to the Court are testaments to that. They speak
2 repeatedly of different things that he did for other
3 people's lives.

4 They also repeatedly come back to a theme about a
5 bad decisionmaking process, that his process in an effort to
6 please other people, perhaps the source of that generosity
7 to make other people's lives better also drove him to make
8 terrible decisions.

9 Some of the decisions were choices of his spouse.
10 Some of those decisions were choices of how he spent money
11 -- not his current spouse, his prior spouse -- choices of
12 how he spent his money, choices in how he subjugated himself
13 to try and win over his son with his second wife that he has
14 utterly failed to be able to do. And his letter to this
15 Court, I think, addresses that in very specific detail about
16 the choices he made in trying to salvage that, and he failed
17 utterly, and he failed utterly in the two worst ways: He
18 has no relationship with that son, and he is a felon, about
19 to go to prison someday.

20 So, his goal was totally frustrated. His means of
21 doing so were wrong. But it is not inconsequential to who
22 he is. That is still very important.

23 In terms of the deterrence specifically to him,
24 Mr. Basralian is deterred. The Government here argues that
25 there's some level of deceit that's even portrayed today, so

1 I'd like to address that.

2 We had a conversation in chambers prior to the
3 call here. The Court asked me to inquire, and I did
4 inquire. I'll put on the record here what I inquired of.

5 So, the first question was about the property in
6 Puerto Rico. It's my understanding that the property in
7 Puerto Rico, my client was an owner of shares of this LLC
8 that owned the property; that he transferred those shares to
9 a family member in a recorded event, a written document --

10 THE COURT: What date was that?

11 (Off the record discussion between the Defendant and
12 defense counsel)

13 MR. BRAVERMAN: It's my understanding, Your Honor,
14 that the -- I do not have a copy of the document, but it's
15 my understanding that the transfer occurred approximately in
16 2016.

17 THE COURT: Okay. The transfer for the
18 property --

19 MR. BRAVERMAN: My client's shares in the LLC is
20 what he transferred out. He owned shares. He transferred
21 them out.

22 THE COURT: In the property in Puerto Rico was in
23 '16?

24 MR. BRAVERMAN: Yes, that's my understanding, Your
25 Honor.

1 THE COURT: Okay.

2 MR. BRAVERMAN: And then the second question was
3 about a house which was a prior marital home, and my
4 understanding of that is that there was a divorce decree --
5 I think I actually said in chambers that it was my client's
6 second wife. I believe the Court was correct: My client's
7 first wife. My client's first wife. I was mistaken on
8 that.

9 There was a divorce decree that occurred in the
10 early part of this century, approximately 2002, that as part
11 of that settlement agreement that that marital home would be
12 sold.

13 That marital home was sold. It's my understanding
14 that the proceeds of that house went to satisfy two
15 financial institutions' liens against the home that were in
16 part equity-secured. There was one that was to a private
17 loan that was secured by the property and two private loans
18 that were not secured by the property, and all remaining
19 proceeds went to my client's ex-wife, and that my client
20 himself pocketed none of the money of that sale.

21 THE COURT: Okay. And just so the record is
22 clear, first, I invited the Government in, and as a
23 follow-up to the issues that were in the presentence report
24 and their August 30th letter under the section called
25 "Second," and they raised issues about the public sale of

1 the Millburn property -- that was raised by Probation -- and
2 the fact that he had requested permission to travel to
3 Puerto Rico to address property where he was a managing
4 partner raised questions. I invited you in. I appreciate
5 that you were able to get me a prompt response. And
6 certainly that's on the record now, and, you know, whatever
7 issues -- whatever the Government does to consider his
8 restitution efforts, they will do. And I appreciate your
9 getting me that answer, because it was left open in the
10 Probation report, and it was also left open in the letter to
11 the Government dated August 30th, and I appreciate the
12 explanation.

13 MR. BRAVERMAN: Sure, Judge. Can I inquire, did
14 Probation give the Court -- in its meeting with the Court,
15 did Probation give to the Court any facts that the Court is
16 going to consider as part of the sentence?

17 THE COURT: The only facts that will be considered
18 were the facts that you just placed on the record, because
19 no one had any information other than you, sir.

20 MR. BRAVERMAN: I apologize. I mean beyond what I
21 just placed on the record here.

22 THE COURT: There are no other facts. They didn't
23 know; they had no information. As you said, the writer is
24 retired. The present Probation Officer didn't have any
25 facts. The Government had no facts. I called you in, and

1 you were kind enough to provide the Court the facts.

2 MR. BRAVERMAN: I appreciate that, Your Honor, and
3 then when the Government had an opportunity, did the
4 Government provide any --

5 THE COURT: Counsel, I said to you in chambers
6 before we met that I had no conversations -- I'm not sure
7 why you are persisting on this line of inquiry to the Court.
8 There were open questions about Mr. Basralian's finances. I
9 asked the Probation writer -- I asked the Government did
10 they raise it, and you chose not to respond to it, and they
11 said they didn't know. I told you this in chambers. And
12 within a minute or two, we called you in, and you were kind
13 enough to get us that information.

14 There was no other information considered by the
15 Court. There were no -- any ex parte communications. I
16 assured you that in chambers, and I assure you that today on
17 the record.

18 So I'd ask that you move forward to another point.

19 MR. BRAVERMAN: Sure. If I can just answer the
20 Court's question in one sentence, which was, the Court
21 inquired, why am I pursuing this. It's just in my
22 experience, I've never had the experience --

23 THE COURT: And you told me that off the record in
24 our meeting, and I explained to you I had a question, and I
25 asked for it. So let's move on.

1 MR. BRAVERMAN: I just note that I object.

2 THE COURT: So noted.

3 MR. BRAVERMAN: Thank you.

4 THE COURT: Please move on.

5 MR. BRAVERMAN: So the next thing under 3553(a)
6 is, I mentioned specific deterrence. There's now general
7 deterrence.

8 So general deterrence is, we have two members of
9 the press here today that I am sure are going to report on
10 this, and when the press reports on this, they're going to
11 report that Mr. Basralian will be sentenced to prison. They
12 will report that he will be sentenced to a financial
13 forfeiture order, a restitution order, a bar from the
14 industry, that he will be a felon for the rest of his life.
15 So they will report these important factors that other
16 people who are in a situation that might be similar to
17 Mr. Basralian's and they will know that if you commit a
18 crime like this, you go to jail, that if you commit a crime
19 like this, that you're barred from the issue of the work.
20 So the general deterrence question is addressed by this, in
21 part, by the length of the sentence, to be sure, but all of
22 the other factors are the things that are generally
23 deterred. The vast majority of society stays out of trouble
24 not because they're going to get caught, but because they
25 don't want to be punished, because they generally speaking